

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BRANDON LEWIS KELLY,

Defendant.

CR-18-15-GF-BMM

ORDER

United States Magistrate Judge John Johnston entered Amended Findings and Recommendations in this matter on July 16, 2020. (Doc. 69.)

When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 153-52 (1986). This Court will review Judge Johnston's Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Johnston conducted a revocation hearing on July 16, 2020. (Doc. 65.) The United States accused Kelly of violating his conditions of supervised release

1)by failure to participate in substance abuse testing; 2) by failure to report to probation office; 3) by using a controlled substance; and 4) by failure to participate in substance abuse treatment. (Doc. 62).

At the revocation hearing, Kelly admitted that he had violated the conditions of his supervised release: 1)by failure to participate in substance abuse testing; 2) by failure to report to probation office; 3) by using a controlled substance; and 4) by failure to participate in substance abuse treatment (65.) Judge Johnston found that the violations Kelly admitted proved to be serious and warranted revocation, and recommended that Kelly receive a custodial sentence of 4 months, with 56 months of supervised release to follow, with the first 60 days spent at a secure inpatient substance abuse treatment center. Judge Johnston recommended that after being released from the inpatient substance abuse treatment facility, Kelly should participate in an out patient substance abuse treatment program, as directed by his probation office. Kelly was advised of the 14 day objection period and his right to allocute before the undersigned. Kelly waived those rights. (Doc. 65.)

The violations prove serious and warrant revocation of Kelly's supervised release. The Court finds no clear error in Judge Johnston's Findings and Recommendations.

Accordingly, **IT IS ORDERED** that Judge Johnston's Findings and Recommendations (Doc. 69) are **ADOPTED IN FULL**.

IT IS FURTHER ORDERED that Defendant Brandon Lewis. Kelly be incarcerated for a term of 4 months of custody, with 56 months of supervised release to follow, with the first 60 days spent at a secure inpatient substance abuse treatment center. After being released from the inpatient substance abuse treatment facility, Kelly should participate in an out patient substance abuse treatment program, as directed by his probation office

DATED this 23rd day of June, 2020.

A handwritten signature in blue ink, reading "Brian Morris".

Brian Morris, Chief District Judge
United States District Court

